

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

In re Application of )  
Takahisa Ueda ) Art Unit: 3108  
Appln. No. : 08/581,050 ) Ex: D. DePumpo  
Filed: December 27, 1995 ) *Appeal No. 2003-1780*  
For: PACKING )

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Reg.  
for  
Recon  
L. Chast  
5/14/04

REQUEST FOR REHEARING

Assistant Commissioner for Patents  
Washington, D.C. 20231

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Sir:

Pursuant to the provisions of 37 CFR 1.197, A REQUEST FOR REHEARING  
(Reconsideration) by the Board is respectfully requested.

Points believed to have been Misapprehended

In their decision dated, January 27, 2004, the Board noted several points where  
perhaps misapprehended by the panel making up the Board at the oral hearing on January 6,  
2004.

(1)

On page 5 of the decision, it is stated:

As to (a), we appreciate that a yarn surface  
is required, but the extent thereof is unspecified

The reference to "(a)" is found on page 4 of the decision where it is stated: "... (a)  
'fiber yarns each having a surface which surface includes an adhesive' ."

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A "fiber" refers to the fiber yarn 40 in the application. The fiber yarns are shown to be cylindrical in the drawings of this application and in the drawings of several of the references of record, for example, U.S. patent 4,559,863 and 5,134,030. The "surface" referred to is clearly the outer cylindrical surface of the fiber, and the "extent of the surface" would necessarily be the entire surface. This point was made at the hearing and in the POST HEARING MEMORANDUM filed by facsimile with the Board on January 8, 2004. In the POST HEARING MEMORANDUM (copy enclosed) the meaning of "surrounding" was discussed to address a question raised at the hearing. The term "surrounding" is intended by Applicant/Appellant to inform all those considering this application that the entire surface of the fibers 40 is intended. At the hearing the undersigned presented a sketch of a fiber 40 surrounded by adhesive and expanded graphite. A copy of this sketch is enclosed herewith. Its presentation is not intended as an addition to the disclosure of this application but rather as an explanation of the intent of the word "surrounding" which was added by amendment and accepted by the examiner.

On page 5 of the decision, a related statement appears:

With respect to (b), it is clear that graphite is required to surround the fiber yarns with adhesive, but the degree of actual bonding engagement or contact with the yarn and adhesive is unspecified.

The reference to "(b)" is found on page 4 of the decision where it is stated: "said internally reinforced braiding yarns being held together by expanded graphite integrally bonded to and surrounding said reinforcing fibers yarns with said adhesive."

It is respectfully submitted that the "degree of actual bonding" would certainly

include the arrangement shown in the sketch submitted herewith. That is, nothing that has been disclosed in the application would exclude this arrangement. This is the understanding intended by applicant.

(2)

In affirming the rejection based upon Ueda in view of Ogino, the Board stated on pages 5 and 6:

..... it is the opinion of this panel of the Board that it would be obvious to one having ordinary skill in the art to modify the braiding packing of Ueda (Figs 7 and 8) by including therein known features in the art, as exemplified by the Ogino disclosure (column 3, lines 59 to column 4, lines 3 and 4)

This assertion can only mean that the Board is viewing graphite sheets as taught by Ueda in Fig. 7, to be the same as graphite particles with the effect shown in the sketch attached hereto. This is precisely the point that Applicant/Appellant argued against at the hearing. It was the undersigned's understanding at the hearing that the Board understood this distinction, which apparently it did not. Sheets will yield the result shown in Enclosure D of Applicant/Appellant's Brief, and that is not the invention.

(3)

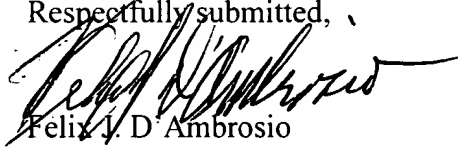
The term "embedded" found on page 7 of Applicant/Appellant's Brief is not, as noted by the Board found in claim 2. Nor is it found in the specification. It should be understood, however, that there was no attempt to rely on this term, per se, as a means of distinguishing claim 2 but as a means of understanding Applicant/Appellant's intent in the recitations found in claim 2. That is in understanding "surrounding" which is in claim 2. It is for

this reason that the oral hearing was requested. Moreover, it is respectfully submitted that if this term is ignored, the distinction over Ueda and Ogino would still apply because they teach using sheets and not graphite particles.

It is respectfully submitted that the Board should give the term "surrounding" a more prominent role in claim 2 and not dismiss it out-of-hand. It was accepted by the examiner during prosecution in Applicant/Appellant's attempt to better define the invention over the art of record. The Board should do no less

Rehearing or reconsideration in view of the above is respectfully requested

Respectfully submitted, \



Felix J. D. Ambrosio

Reg. No. 25,721

March 29, 2004

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